

(1) Where there are circumstances indicating that all or a part of the wine reported lost was unlawfully removed, or

(2) Where the loss on bonded wine premises during the annual period exceeds three percent of the aggregate volume of wine on-hand at the beginning of the annual period and the volume of wine received in bond during the annual period; or the loss exceeds six percent of the still wine produced by fermentation; or the loss exceeds six percent of the sparkling wine produced by fermentation in bottles; or the loss exceeds three percent of the special natural wine produced under §24.195 or other wine produced under §24.218; or the loss exceeds three percent of the artificially carbonated wine produced; or the loss exceeds three percent of the bulk process sparkling wine produced.

The percentage applicable to each tax class of wine will be calculated separately, unless the calculation is impracticable because of the mixture of different tax classes by addition of wine spirits or blending during the annual period, in which case the percentage will be calculated on the aggregate volume. Wine removed immediately after production for use as distilling material and on which the usual racking, clarifying, and filtering losses are not sustained, will not be included in the calculations.

(c) *Bottle and other container wine losses.* Wine filled into a bottle or other similar containers are not subject to losses due to spillage, leakage, soaking, evaporation, and other losses normally occurring from racking and filtering. In addition, wine that has been filled into a bottle or other similar containers can be accurately accounted for and any unexplained shortage is considered evidence of an unreported removal. Therefore, the proprietor shall pay the tax on any unexplained loss of untaxpaid bottled or packed wine disclosed by inventory or otherwise. (Sec. 201, Pub. L. 85-859, 72 Stat.

1381, as amended (26 U.S.C. 5367, 5369, 5370))

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[T.D. ATF-299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF-312, 56 FR 31082, July 9, 1991]

#### **§24.267 Losses in transit.**

Where the loss in transit of bulk wine shipped in bond or the total daily bulk wine in bond shipments received in bond from the same winery exceeds one percent (two percent on trans-continental shipments) of the volume shipped, the proprietor of the receiving bonded wine premises shall immediately notify the regional director (compliance) or nearest designated ATF officer and file a claim under the provisions of §24.65. (Sec. 201, Pub. L. 85-859, 72 Stat. 1381, as amended (26 U.S.C. 5370))

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#### **§24.268 Losses by fire or other casualty.**

The proprietor shall report any loss by fire or other casualty, or any other extraordinary or unusual loss, including a loss by theft, immediately to the regional director (compliance) or nearest designated ATF officer. If required by the regional director (compliance), the proprietor shall file a claim under the provisions of §24.65. The volume of wine loss will be reported on the ATF F 5120.17 for the reporting period the loss occurred. (Sec. 201, Pub. L. 85-859, 72 Stat. 1381, as amended (26 U.S.C. 5370))

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